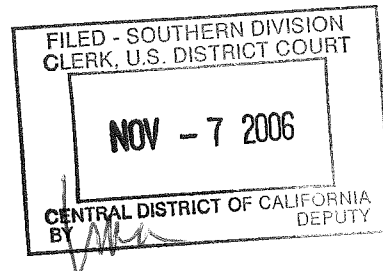


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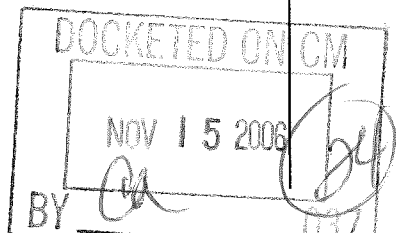
10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,) SA CR 05-155-CJC
13 Plaintiff,) PLEA AGREEMENT FOR DEFENDANT
14 v.) JOHN HAROLD SCOBEE, JR.
15 JOHN HAROLD SCOBEE, JR.,)
16 Defendant.)
17)
18)

19 1. This constitutes the plea agreement between John Harold
20 Scobey, Jr. ("defendant") and the United States Attorney's Office
21 for the Central District of California ("the USAO") in the above-
22 captioned case. This agreement is limited to the USAO and cannot
23 bind any other federal, state or local prosecuting,
24 administrative or regulatory authorities.

25 PLEA

26 2. Defendant agrees to plead guilty to count one of the
27 indictment in United States v. John Harold Scobey, Jr., SA CR 05-
28 155-CJC.



NATURE OF THE OFFENSE

3. In order for defendant to be guilty of count ONE, which charges distribution of child pornography, a violation of Title 18, United States Code, Section 2252A(a)(2)(A), the following must be true: (1) defendant knowingly distributed at least one image of child pornography, i.e., a visual depiction of sexually explicit conduct; (2) defendant knew that the image of child pornography contained in the material showed a minor engaged in sexually explicit conduct; (3) defendant knew that the production of the visual depictions involved the use of a minor engaging in sexually explicit conduct or depicted such conduct; and (4) the visual depictions had been shipped or transported in interstate or foreign commerce by any means, including by computer. "Visual depiction" includes undeveloped film and video tape, and data that has been stored on computer disk or data that has been stored by electronic means and that is capable of conversion into a visual image. A "minor" is any person under the age of 18 years. "Sexually explicit conduct" means actual or simulated sexual intercourse, bestiality, masturbation, sadistic or masochistic abuse, or lascivious exhibition of the genitals or pubic area of any person.

Defendant admits that defendant is, in fact, guilty of this offense as described in count one of the indictment.

PENALTIES AND RESTITUTION

4. The statutory maximum sentence that the Court can impose for a violation of Title 18, United States Code, Section 2252A(a)(2)(A) is: 20 years imprisonment; a life-time period of supervised release; a fine of \$250,000 or twice the gross gain or

1 gross loss resulting from the offense, whichever is greatest; and
2 a mandatory special assessment of \$100. The statutory mandatory
3 minimum sentence that the Court must impose for a violation of
4 Title 18, United States Code, Section 2252A(a)(2)(A), is 5 years
5 imprisonment.

6 5. Supervised release is a period of time following
7 imprisonment during which defendant will be subject to various
8 restrictions and requirements. Defendant understands that if
9 defendant violates one or more of the conditions of any
10 supervised release imposed, defendant may be returned to prison
11 for all or part of the term of supervised release, which could
12 result in defendant serving a total term of imprisonment greater
13 than the statutory maximum stated above.

14 6. Defendant understands that as a condition of supervised
15 release, under 18 U.S.C. §3583(d), he will be required to
16 register as a sex offender.

17 7. Defendant understands that defendant will be required
18 to pay full restitution to the victims of the offense. Defendant
19 agrees that, in return for the USAO's compliance with its
20 obligations under this agreement, the amount of restitution is
21 not restricted to the amounts alleged in the counts to which
22 defendant is pleading guilty and may include losses arising from
23 counts dismissed and charges not prosecuted pursuant to this
24 agreement as well as all relevant conduct in connection with
25 those counts and charges. Defendant further agrees that
26 defendant will not seek the discharge of any restitution
27 obligation, in whole or in part, in any present or future
28 bankruptcy proceeding.

1 8. Defendant also understands that, by pleading guilty,
2 defendant may be giving up valuable government benefits and
3 valuable civic rights, such as the right to vote, the right to
4 possess a firearm, the right to hold office, and the right to
5 serve on a jury.

6 9. Defendant further understands that the conviction in
7 this case may subject defendant to various collateral
8 consequences, including but not limited to, deportation,
9 revocation of probation, parole, or supervised release in another
10 case, and suspension or revocation of a professional license.
11 Defendant understands that unanticipated collateral consequences
12 will not serve as grounds to withdraw defendant's guilty plea.

13 FACTUAL BASIS

14 10. Defendant and the USAO agree and stipulate to the
15 statement of facts provided below. This statement of facts
16 includes facts sufficient to support a plea of guilty to the
17 charges described in this agreement and to establish the
18 sentencing guideline factors set forth in paragraph 14 below. It
19 is not meant to be a complete recitation of all facts relevant to
20 the underlying criminal conduct or all facts known to defendant
21 that relate to that conduct.

22 Between February 19, 2004 and February 23, 2004,
23 defendant John Harold Scobey ("SCOBEY"), a member and
24 moderator of the Yahoo! group "lisas_flower_basket",
25 using the Yahoo! ID "jills692003" transmitted 103 child
26 pornography images to the photos section of the group.
27 SCOBEY knew that the child pornography had been shipped
28

1 or transported in interstate or foreign commerce by
2 computer.

3
4 On June 16, 2004, the Federal Bureau of Investigation
5 executed a search warrant at SCOBey's residence in Garden
6 Grove, California. During the search, law enforcement
7 officers seized SCOBey's computer equipment including a
8 Compaq Presario personal computer, containing a Seagate
9 brand hard drive, serial number 3J82FED8, ("Seagate Hard
10 Drive") and various compact discs which SCOBey had
11 possessed. A subsequent search of the hard drive and
12 compact discs revealed images depicting child pornography,
13 i.e., a visual depiction of actual minors engaged in
14 sexually explicit conduct. The images and visual depictions
15 had been shipped or transported in interstate or foreign
16 commerce by any means, including by computer, or had been
17 produced using materials which had been shipped or
18 transported in interstate or foreign commerce, including by
19 computer. In this case, the images of child pornography
20 came from the internet. The Seagate Hard Drive and compact
21 discs contained at least images of child pornography.

22
23 SCOBey knowingly distributed and possessed material
24 that he knew contained an image of child pornography,
25 i.e., a visual depiction of sexually explicit conduct;
26 SCOBey knew that the images of child pornography
27 contained in the material showed a minor engaged in
28 sexually explicit conduct; and SCOBey knew that the

1 production of the visual depictions involved the use of
2 a minor engaging in sexually explicit conduct or
3 depicted such conduct.

4 WAIVER OF CONSTITUTIONAL RIGHTS

5 11. By pleading guilty, defendant gives up the following
6 rights:

7 a) The right to persist in a plea of not guilty.

8 b) The right to a speedy and public trial by jury.

9 c) The right to the assistance of legal counsel at
10 trial, including the right to have the Court appoint counsel for
11 defendant for the purpose of representation at trial. In this
12 regard, defendant understands that, despite his or her plea of
13 guilty, he or she retains the right to be represented by counsel
14 - and, if necessary, to have the court appoint counsel if
15 defendant cannot afford counsel - at every other stage of the
16 proceedings.

17 d) The right to be presumed innocent and to have the
18 burden of proof placed on the government to prove defendant
19 guilty beyond a reasonable doubt.

20 e) The right to confront and cross-examine witnesses
21 against defendant.

22 f) The right, if defendant wished, to testify on
23 defendant's own behalf and present evidence in opposition to the
24 charges, including the right to call witnesses and to subpoena
25 those witnesses to testify.

26 g) The right not to be compelled to testify, and, if
27 defendant chose not to testify or present evidence, to have that
28 choice not be used against defendant.

1 By pleading guilty, defendant also gives up any and all
 2 rights to pursue any affirmative defenses, Fourth Amendment or
 3 Fifth Amendment claims, and other pretrial motions that have been
 4 filed or could be filed.

5 SENTENCING FACTORS

6 12. Defendant understands that the Court is required to
 7 consider the United States Sentencing Guidelines ("U.S.S.G." or
 8 "Sentencing Guidelines") among other factors in determining
 9 defendant's sentence. Defendant understands, however, that the
 10 Sentencing Guidelines are only advisory, and that after
 11 considering the Sentencing Guidelines, the Court may be free to
 12 exercise its discretion to impose any reasonable sentence up to
 13 the maximum set by statute for the crimes of conviction.

14 13. Pursuant to USSG 1.B1.11(b)(1), defendant and the
 15 USAO agree and stipulate that the November 1, 2003 Sentencing
 16 Guidelines Manual should be applied to prevent a violation of the
 17 ex post facto clause of the United States Constitution. The
 18 parties also stipulate and agree to the following applicable
 19 sentencing guideline factors:

20	Base Offense Level :	<u>17</u>	U.S.S.G. § 2G2.2(a)
21	Specific Offense		
22	Characteristics		
	(Less than 12 years):	<u>+ 2</u>	U.S.S.G. § 2G2.2(b)(1)
23	(Distribution) :	<u>+ 2</u>	U.S.S.G. § 2G2.2(b)(2)(E)
24	(Use of a computer) :	<u>+ 2</u>	U.S.S.G. § 2G2.2(b)(5)
25	Acceptance of		
26	Responsibility :	<u>- 3</u>	U.S.S.G. §3E1.1

1 The USAO will agree to a downward adjustment for acceptance of
2 responsibility (and, if applicable, move for an additional level
3 under § 3E1.1(b)) only if the conditions set forth in paragraph
4 16) are met. Subject to paragraph 15, defendant and the USAO
5 agree not to seek, argue, or suggest in any way, either orally or
6 in writing, that any other specific offense characteristics,
7 adjustments or departures, from either the applicable Offense
8 Level or Criminal History Category, be imposed with the following
9 exceptions. The USAO office may argue that defendant's offense
10 level should be increased by 4 levels, pursuant to § 2G2.2(b)(3),
11 because the offense involved material that portrays sadistic or
12 masochistic conduct or other depictions of violence. The parties
13 may argue for any number of level increase based on the number of
14 child pornography images involved in the offense, pursuant to §
15 2G2.2(b)(6)(D). If, however, after signing this agreement but
16 prior to sentencing, defendant were to commit an act, or the USAO
17 were to discover a previously undiscovered act committed by
18 defendant prior to signing this agreement, which act, in the
19 judgment of the USAO, constituted obstruction of justice within
20 the meaning of U.S.S.G. § 3C1.1, the USAO would be free to seek
21 the enhancement set forth in that section. Defendant may argue
22 for a sentencing variance, outside the calculation of the
23 sentencing guidelines, based on United States v. Booker, 543 U.S.
24 220, 233 (2005).

25 14. There is no agreement as to defendant's criminal
26 history or criminal history category.

27 15. The stipulations in this agreement do not bind either
28 the United States Probation Office or the Court. Both defendant

1 and the USAO are free to: (a) supplement the facts by supplying
2 relevant information to the United States Probation Office and
3 the Court, (b) correct any and all factual misstatements relating
4 to the calculation of the sentence, and (c) argue on appeal and
5 collateral review that the Court's sentencing guidelines
6 calculations are not error, although each party agrees to
7 maintain its view that the calculations in paragraph 13 are
8 consistent with the facts of this case.

9 DEFENDANT'S OBLIGATIONS

10 16. Defendant agrees that he or she will:

11 a) Plead guilty as set forth in this agreement.

12 b) Not knowingly and willfully fail to abide by all
13 sentencing stipulations contained in this agreement.

14 c) Not knowingly and willfully fail to: (i) appear as
15 ordered for all court appearances, (ii) surrender as ordered for
16 service of sentence, (iii) obey all conditions of any bond, and
17 (iv) obey any other ongoing court order in this matter.

18 d) Not commit any crime; however, offenses which would
19 be excluded for sentencing purposes under U.S.S.G. § 4A1.2(c) are
20 not within the scope of this agreement.

21 e) Not knowingly and willfully fail to be truthful at
22 all times with Pretrial Services, the U.S. Probation Office, and
23 the Court.

24 f) Pay the applicable special assessment at or before
25 the time of sentencing unless defendant lacks the ability to pay.

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THE USAO'S OBLIGATIONS

17. If defendant complies fully with all defendant's obligations under this agreement, the USAO agrees:

a) To abide by all sentencing stipulations contained in this agreement.

b) At the time of sentencing, provided that defendant demonstrates an acceptance of responsibility for the offense up to and including the time of sentencing, to recommend a two-level reduction in the applicable sentencing guideline offense level, pursuant to U.S.S.G. § 3E1.1, and to recommend and, if necessary, move for an additional one-level reduction if available under that section.

c) To recommend that defendant be sentenced at the low end of the applicable Sentencing Guidelines range provided that the total offense level as calculated by the Court is 25 or higher and provided that the Court does not depart downward in offense level or criminal history category. To recommend a five year term of supervised release.

d) At the time of sentencing to move to dismiss the remaining counts of the indictment as against defendant. Defendant agrees, however, that at the time of sentencing the Court may consider the dismissed count in determining the applicable Sentencing Guidelines range, where the sentence should fall within that range, the propriety and extent of any departure from that range, and the determination of the sentence to be imposed after consideration of the sentencing guidelines and all other relevant factors.

BREACH OF AGREEMENT

18. If defendant, at any time between the execution of this agreement and defendant's sentencing on a non-custodial sentence or surrender for service on a custodial sentence, knowingly violates or fails to perform any of defendant's obligations under this agreement ("a breach"), the USAO may declare this agreement breached. If the USAO declares this agreement breached, and the Court finds such a breach to have occurred, defendant will not be able to withdraw defendant's guilty plea, and the USAO will be relieved of all of its obligations under this agreement.

19. Following a knowing and willful breach of this agreement by defendant, should the USAO elect to pursue any charge that was either dismissed or not filed as a result of this agreement, then:

a) Defendant agrees that any applicable statute of limitations is tolled between the date of defendant's signing of this agreement and the commencement of any such prosecution or action.

b) Defendant gives up all defenses based on the statute of limitations, any claim of preindictment delay, or any speedy trial claim with respect to any such prosecution, except to the extent that such defenses existed as of the date of defendant's signing of this agreement.

LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

20. Defendant gives up the right to appeal the Court's determination of the applicable Sentencing Guidelines range, including the method by which the Court calculated that range, with the following exceptions: the defendant can appeal (a) any

1 upward departure in offense level or criminal history category;
2 and (b) any determination that the total offense level is above
3 29. Defendant retains the ability to appeal his sentence on all
4 other grounds, including in particular the reasonableness of the
5 sentence imposed by the court, the court's determination of
6 defendant's criminal history category, and the conditions of
7 supervised release imposed by the court, with the exception of
8 the following: standard conditions set forth in district court
9 General Orders 318 and 01-05; the drug testing conditions
10 mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); the alcohol and
11 drug use conditions authorized by 18 U.S.C. § 3563(b)(7); and the
12 following conditions:

13 a. Defendant shall not possess or use a device with
14 access to any online service at any location without the prior
15 approval of the Probation Officer. This includes access through
16 any Internet service provider, bulletin board system, or any
17 public or private computer network system. Further, defendant
18 shall not have another individual access the Internet on his
19 behalf to obtain files or information that he is restricted from
20 accessing himself, or accept restricted files or information from
21 another person;

22 b. Defendant shall use only those computers,
23 computer-related devices, screen/user names, passwords, e-mail
24 accounts, and Internet Service Providers (ISPs) as approved by
25 the Probation Officer. Computer and computer-related devices
26 include, but are not limited to, personal computers, personal
27 data assistants (PDAs), Internet appliances, electronic games,
28 and cellular telephones, as well as peripheral equipment, that

1 can access, or can be modified to access, the Internet,
2 electronic bulletin boards, other computers, or similar media.
3 Defendant shall use any approved computers only within the scope
4 of his employment. Defendant shall not access a computer for any
5 other purposes. Defendant shall immediately report any changes
6 in defendant's employment affecting defendant's access and/or use
7 of computers or the Internet, including e-mail;

8 c. All computers, computer-related devices, computer
9 storage media, and peripheral equipment used by defendant shall
10 be subject to search and seizure, and subject to the installation
11 of search and/or monitoring software and/or hardware, including
12 unannounced seizure for the purpose of search. Defendant shall
13 not add, remove, upgrade, update, reinstall, repair, or otherwise
14 modify the hardware or software on any computers, computer-
15 related devices, or their peripheral equipment without the prior
16 approval of the Probation Officer, nor shall defendant hide or
17 encrypt files or data. Further, defendant shall, as requested by
18 the Probation Officer, provide all billing records, including
19 telephone, cable, Internet, satellite, and similar records.

20 d. Defendant shall register with the state sex
21 offender registration agency in any state where the defendant
22 resides, is employed, carries on a vocation, or is a student, as
23 directed by the Probation Officer. The defendant shall provide
24 proof of registration to the Probation Officer within five days
25 of release from imprisonment.

26 e. Defendant shall not possess any materials,
27 including pictures, photographs, books, writings, drawings,
28 videos, or video games, depicting and/or describing child

1 pornography, as defined in 18 U.S.C. 2256(8).

2 f. Defendant shall not contact the victims, by any
3 means, including in person, by mail or electronic means, or via
4 third parties. Further, the defendant shall remain at least 100
5 yards from the victim(s) at all times. If any contact occurs,
6 the defendant shall immediately leave the area of contact, and
7 report the contact to the Probation Officer.

8 21. Defendant also gives up any right to bring a post-
9 conviction collateral attack on the conviction or sentence,
10 including any order of restitution, except a post-conviction
11 collateral attack based on a claim of ineffective assistance of
12 counsel, a claim of newly discovered evidence, or an retroactive
13 change in the applicable Sentencing Guidelines, sentencing
14 statutes, or statutes of conviction.

15 22. The USAO gives up its right to appeal the sentence,
16 provided that (a) the Court in determining the applicable
17 guideline range does not depart downward in offense level or
18 criminal history category, (b) the Court determines that the
19 total offense level is 29 or above, and (c) the Court imposes a
20 sentence within or above the range corresponding to the
21 determined total offense level and criminal history category.

22 COURT NOT A PARTY

23 23. The Court is not a party to this agreement and need not
24 accept any of the USAO's sentencing recommendations or the
25 parties' stipulations. Even if the Court ignores any sentencing
26 recommendation, finds facts or reaches conclusions different from
27 any stipulation, and/or imposes any sentence up to the maximum
28 established by statute, defendant cannot, for that reason,

1 withdraw defendant's guilty plea, and defendant will remain bound
2 to fulfill all defendant's obligations under this agreement. No
3 one - not the prosecutor, defendant's attorney, or the Court -
4 can make a binding prediction or promise regarding the sentence
5 defendant will receive, except that it will be within the
6 statutory maximum.

7 NO ADDITIONAL AGREEMENTS

8 24. Except as set forth herein, there are no promises,
9 understandings or agreements between the USAO and defendant or
10 defendant's counsel. Nor may any additional agreement,
11 understanding or condition be entered into unless in a writing
12 signed by all parties or on the record in court.

13 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING


14 25. The parties agree and stipulate that this Agreement
15 will be considered part of the record of defendant's guilty plea
16 hearing as if the entire Agreement had been read into the record
17 of the proceeding.

18 This agreement is effective upon signature by defendant and
19 an Assistant United States Attorney.

20 AGREED AND ACCEPTED

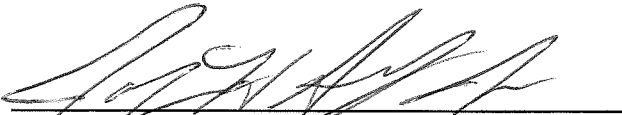
21 UNITED STATES ATTORNEY'S OFFICE
22 FOR THE CENTRAL DISTRICT OF CALIFORNIA

23 DEBRA WONG YANG
24 United States Attorney

25 
26 ANNE C. GANNON
27 Assistant United States Attorney
28

11-6-06
Date

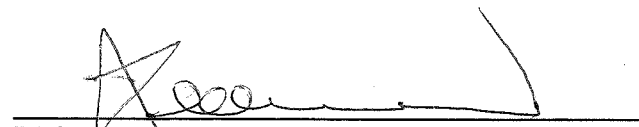
1 I have read this agreement and carefully discussed every
2 part of it with my attorney. I understand the terms of this
3 agreement, and I voluntarily agree to those terms. My attorney
4 has advised me of my rights, of possible defenses, of the
5 Sentencing Guideline provisions, and of the consequences of
6 entering into this agreement. No promises or inducements have
7 been made to me other than those contained in this agreement. No
8 one has threatened or forced me in any way to enter into this
9 agreement. Finally, I am satisfied with the representation of my
10 attorney in this matter.

11 
12 _____
13 JOHN HAROLD SCOBEEY, JR.
14 Defendant

11/2/06

Date

15 I am John Harold Scobey, Jr.'s attorney. I have carefully
16 discussed every part of this agreement with my client. Further,
17 I have fully advised my client of his rights, of possible
18 defenses, of the Sentencing Guidelines' provisions, and of the
19 consequences of entering into this agreement. To my knowledge,
20 my client's decision to enter into this agreement is an informed
21 and voluntary one.

22 
23 _____
24 LEON PETERSON
25 DEPUTY FEDERAL PUBLIC DEFENDER

11-3-6

Date

26 Counsel for Defendant
27 John Harold Scobey, Jr.
28

CERTIFICATE OF SERVICE BY HAND

1 I, **STEPHANIE ASCENCIO**, declare:

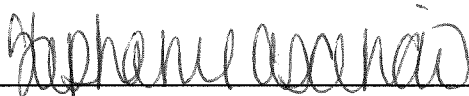
2 That I am a citizen of the United States and resident or
3 employed in Orange County, California; that my business address
4 is Office of United States Attorney, United States Courthouse,
5 Suite 8000, 411 West Fourth Street, Santa Ana, California 92701;
6 that I am over the age of eighteen years, and am not a party to
7 the above-entitled action;
8

9 That I am employed by the United States Attorney for the
10 Central District of California who is a member of the Bar of the
11 United States District Court for the Central District of
12 California, at whose direction the service by hand described in
13 this Certificate was made; that on **November 7, 2006**, I hand
14 delivered, in the above-entitled action, a copy of **PLEA AGREEMENT**
15 **FOR DEFENDANT JOHN HAROLD SCOBAY, JR.**
16

17 Addressed to: **SEE ATTACHMENT**

18 This Certificate is executed on **November 7, 2006**, at Santa
19 Ana, California.

20 I certify under penalty of perjury that the foregoing is
21 true and correct.

22 
23 **STEPHANIE ASCENCIO**

ATTACHMENT

1 **LEON PETERSON - DFPD**
2 OFFICE OF THE FEDERAL DEFENDER
3 411 WEST FOURTH STREET
4 SUITE 7110
5 SANTA ANA, CA 92701
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